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8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 **MAR-NIQUE SIMON,**

14 Petitioner,

15 v.

16 **DOMINGO URIBE,<sup>1</sup> Warden,**

17 Respondent.  
18

C 09-05859 WHA (PR)

**JOINT STATEMENT, STIPULATION,  
AND ~~[PROPOSED]~~ ORDER  
REGARDING THIS COURT'S  
CONTINUING JURISDICTION OVER  
FEDERAL HABEAS PETITION AND  
RETRACTION OF MOTION TO  
WITHDRAW AS COUNSEL**

19  
20 On November 13, 2025, this Court held a hearing with counsel for both parties concerning  
21 a motion to withdraw as counsel filed by petitioner's counsel, Mr. Tamor. Later that day, the  
22 Court issued an order setting forth certain triggering dates and tasks for counsel depending on Mr.  
23 Tamor's decision as to whether it would be proper for him to remain as counsel for petitioner.  
24 Dkt. No. 217. The parties have met and conferred, and Mr. Tamor has indicated that he decided it  
25 would be proper for him to remain as counsel for petitioner. The parties therefore agree and  
26 stipulate to the following:

27 <sup>1</sup> Petitioner is currently incarcerated at California State Prison, Sacramento, and is in the  
28 custody of Warden Jason Schultz. We therefore request that Warden Schultz be substituted for  
Warden Uribe as the respondent in this case.

- 1           1. On December 11, 2003, petitioner pleaded no contest to charges of attempted murder  
2           and second degree robbery, and admitted firearm and great bodily injury enhancements,  
3           in Alameda County Superior Court case number 145604. On March 1, 2004, the trial  
4           court sentenced petitioner to twenty years in state prison.
- 5           2. On December 15, 2009, petitioner filed a petition for writ of habeas corpus in this  
6           action challenging his state judgment in case number 145604. At the time petitioner  
7           filed his federal petition, he was in state prison serving his twenty-year sentence on the  
8           underlying state judgment he was challenging. He therefore met the “in custody”  
9           requirement for filing a federal habeas petition challenging his underlying state  
10          judgment. *Maleng v. Cook*, 490 U.S. 488, 490-91 (1989) (per curiam); *Garding v.*  
11          *Montana Dep’t of Corr.*, 105 F.4th 1247, 1256 (9th Cir. 2024).
- 12          3. On December 22, 2019, petitioner was released from prison and placed on parole. On  
13          December 21, 2022, petitioner was discharged from parole, and is no longer in custody  
14          on the underlying judgment being challenged in this federal habeas action. However,  
15          because petitioner filed his federal petition while he was in custody on the underlying  
16          judgment being challenged, his release from custody during the pendency of his federal  
17          proceeding does not deprive this Court of jurisdiction over the petition, because of the  
18          presumed “continuing collateral consequences” of the underlying state judgment.  
19          *Spencer v. Kemna*, 523 U.S. 1, 7-8 (1998).
- 20          4. In light of the above stipulated facts and legal authorities, Mr. Tamor has decided that  
21          his motion to withdraw as counsel is moot, and he hereby retracts the motion to  
22          withdraw (Dkt. No. 211).

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1                   **IT IS SO AGREED AND STIPULATED.**

2           Dated: November 17, 2025

Respectfully submitted,

3                   ROB BONTA  
4                   Attorney General of California  
5                   GREGORY A. OTT  
6                   Deputy Attorney General

7                   /s/ Michele J. Swanson  
8                   MICHELE J. SWANSON  
9                   Supervising Deputy Attorney General  
10                  Attorneys for Respondent

11           Dated: November 17, 2025

Respectfully submitted,


12                  /s/ Richard Tamor  
13                  RICHARD TAMOR  
14                  Attorney at Law  
15                  Attorney for Petitioner

16                   ~~**PROPOSED**~~ **ORDER**

17                   **FOR GOOD CAUSE SHOWN, IT IS ORDERED THAT:**

18           The Court accepts the above joint statement and stipulation of the parties, and finds that  
19           the Court retains jurisdiction over this federal habeas proceeding for the reasons set forth by the  
20           parties. The parties should continue to follow the relevant schedule set forth by the Court in its  
21           order dated November 13, 2025 (Dkt. No. 217). Specifically, the parties should proceed to follow  
22           paragraphs 3, 4(a), 5(a), 6 of that order.  
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24  
25           DATED: **November 18, 2025**

26                     
27                   The Honorable William H. Alsup  
28                   United States District Judge